

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

PERRY GUMBS,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 4/9/2021

No. 16-cr-821 (NSR)
ORDER

NELSON S. ROMÁN, United States District Judge:

On October 16, 2017, the Court entered a Judgment and sentenced Defendant Perry Gumbs (“Defendant”) to a term of imprisonment of sixty-two months. (ECF No. 27.) Subsequently, Defendant, acting pro se, filed a motion for compassionate release (ECF No. 48) and motion seeking appointment of pro bono counsel (ECF No. 51). The Court then granted Defendant’s motion for appointment of pro bono counsel and scheduled a hearing on Defendant’s motion for compassionate release for April 29, 2021. (*See* ECF Nos. 54, 58, and 59.)

In advance of the hearing, on April 7, 2021, Defendant’s counsel advised the Court that Defendant had recently been released from imprisonment at FCI Shuykill, and placed in a half-way house in Brooklyn, New York. Given Defendant’s release from imprisonment, Defendant’s counsel sought leave from the Court to withdraw as counsel. (ECF No. 60.)

The only relief sought in Defendant’s motion for compassionate release is a reduction in his sentence to time served and the sole basis for that motion is that overcrowding in FCI Shuykill placed him at a greater risk of contracting COVID-19 and experiencing serious complications from the disease. (*See* ECF Nos. 48 & 52.) As he has now been released from incarceration at FCI Shuykill, and he is no longer facing conditions of confinement that place

him at greater risk of contracting COVID-19, his motion is rendered moot. *See United States v. Chestnut*, 989 F.3d 222, 224 (2d Cir. 2021) (citing *United States v. Martin*, 974 F.3d 124, 144 (2d Cir. 2020); *United States v. Holloway*, 956 F.2d 660, 664 (2d Cir. 2020)).

Accordingly: (1) Defendant's motion for compassionate release is DENIED; (2) the application of Domenick J. Porco to withdraw as Defendant's counsel is GRANTED; and (3) the hearing scheduled on Defendant's motion for compassionate release for April 29, 2021 is CANCELLED. The Clerk of the Court is respectfully directed to terminate the Motions at ECF Nos. 48 & 60.

Dated: April 9, 2021
White Plains, New York

SO ORDERED:

A handwritten signature in blue ink, appearing to read "Nelson S. Román", is written over a light blue rectangular background.

NELSON S. ROMÁN
United States District Judge